Please amend claim 1 as follows:

1. (Amended) An antisense compound 8 to 30 nucleobases in length targeted to the 5' untranslated region, coding region, intron:exon junction, intron region, exon region, translation termination codon region or 3' untranslated region of a nucleic acid molecule encoding human mdm2 (SEQ ID NO:1), wherein said antisense compound modulates the expression of mdm2.

SUB B1

REMARKS

Claims 1-50 are pending in this application. Claim 4 has been canceled. Claim 1 has been amended. The pending claims have been subjected to a Restriction Requirement by the Examiner as follows:

Group I, claims 1-11, drawn to a an antisense compound 8 to 30 nucleobases in length targeted to the 5'- untranslated region, coding region, intron:exon junction, intron region, exon region, translation termination codon region or 3'-untranslated region of a nucleic acid molecule human mdm2, classified in class 536, subclass 24.5.

Group II, claims 22-28, drawn to an antisense compound, classified in class 536, subclass 24.5.

Group III, claims 12-21, drawn to a method of modulating the expression of mdm2 in cells or tissues, classified in class 514, subclass 44.

Group IV, claims 29-43, drawn to a method of modulating the expression of mdm2 in cells or tissues, classified in class 514, subclass 44.

Group V, claims 44-50, drawn to an oligonucleotide comprising at least one nucleotide a heterocycle member covalently bound to a substituted sugar member, classified in class 536 subclass 24.5.

The Examiner suggests that the inventions are distinct, each from the other. It is specifically suggested that Group I and Group III are related as product and process of use. Group II and IV are suggested to be related as product and process of use. Group III and IV are suggested to be drawn to patentably distinct methods since they are disclosed as being practiced using chemically and structurally distinct antisense compounds. It is further suggested that the inventions according to Groups I-II and V are drawn to chemically and structurally distinct compounds, whereas Group V is not limited to any particular nucleic acid. The Examiner further suggests that the Groups have acquired a separate status in the art, and that restriction is proper. Applicants respectfully disagree.

The Examiner further suggests that the sequences recited in claim 4 are distinct as each SEQ ID NO. is a unique nucleotide sequence, and each sequence targets different and specific regions

of the nucleic acid encoding human mdm2, modifying expression of the gene to varying degrees. The Examiner suggests that a search of more than one of the identified antisense sequences presents an undue burden on the Patent and Trademark Office. The Examiner has required Applicants to elect one sequence. Applicants respectfully traverse this restriction requirement.

MPEP §803 is quite clear; for a proper restriction requirement, it must be shown (1) that the inventions are independent or distinct AND (2) that there would be a serious burden on the Examiner if the restriction is not required. MPEP 802.01 defines "distinct" to mean that the "two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made there, etc., but are capable of separate manufacture, use, or sale, as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER."

All of claims of the instant application relate to the single concept of human mdm2 modulation. Accordingly, each of the claims contain the components for use in the same endpoint, namely modulation of human mdm2 expression. Thus, Applicants respectfully disagree that the Groups set forth by the Examiner are distinct as being novel and unobvious over each other, as required

by MPEP § 802.01. Further, a single search relating to human mdm2 modulation would identify art related to both of the Groups identified in this application and would not be overly burdensome to the Examiner. Accordingly, the instant Restriction Requirement meets neither of the criteria as set forth by MPEP §803 to be proper.

Further, as acknowledged by the Examiner, all of the identified SEQ ID NOS of this application share the ability to modulate a common structure, namely the human mdm2 gene. Thus, Applicants respectfully disagree that the sequences are distinct as being novel and unobvious over each other, as required by MPEP § 802.01. Reconsideration and withdrawal of this Restriction Requirement is therefore respectfully requested.

However, in an earnest effort to be completely responsive, Applicants hereby elect to prosecute Group I, claims 1-11, and SEQ ID NO: 1, with traverse. Claim 4 has been canceled. Claim 1 has been amended to clarify that the claimed invention is an compound targeted to a *single* disclosed species of the human mdm2, namely, SEQ ID NO: 1. Support for this amendment is found throughout the specification and at page 55. Applicants believe that these amendments and this election satisfies the requirements of this Restriction Requirement. Attached hereto is a marked up

version of the changes made to the claims by the current amendment. The attached page is captioned "Version With Markings to Show Changes Made."

Respectfully submitted,

Jane Massey Licata
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Date: **November 4, 2002**

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856-810-1515

VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

Please cancel claim 4.

Please amend claim 1 as follows:

1. (Amended) An antisense compound 8 to 30 nucleobases in length targeted to the 5' untranslated region, coding region, intron:exon junction, intron region, exon region, translation termination codon region or 3' untranslated region of a nucleic acid molecule encoding human mdm2 (SEQ ID NO:1), wherein said antisense compound modulates the expression of mdm2.